

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

T.C. TYRA ELLIOTT,

Plaintiff,

V.

L. GOLSTON, Shelby County Sheriff, SGT.  
CUNNINGHAM, DEPUTY MOORE, and  
JAMES FRANKLIN,

Defendants.

No. 2:19-cv-02767-TLP-tmp

JURY DEMAND

## ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING MOTION FOR SUMMARY JUDGMENT

Plaintiff T.C. Tyra Elliott sued L. Golston, Sgt. Cunningham, Deputy Moore, and James Franklin pro se under 42 U.S. Code § 1983. (ECF No. 1.) And the Court referred this case to the Magistrate Court for determination of all pretrial matters under Administrative Order 2013-05. In February 2020, Defendant Cunningham moved for judgment on the pleadings (ECF No. 23), and this Court denied Defendant's motion based on the Magistrate Court's recommendation. (ECF No. 80.) Based on that denial, Plaintiff now moves for summary judgment. (ECF No. 82.) Defendant Cunningham responded to Plaintiff's summary judgment motion (ECF No. 87), and Plaintiff replied. (ECF No. 89.) Overall, the Magistrate Court entered a Report and Recommendation ("R&R") recommending that the Court deny Plaintiff's Motion for Summary Judgment. (ECF No. 98.)

For the reasons below, the Court **ADOPTS** the R&R in full. The Court thus **DENIES** Plaintiff's Motion for Summary Judgment.

### **THE REPORT AND RECOMMENDATION**

First, the Magistrate Court thoroughly outlined the summary judgment standard. (ECF No. 98 at PageID 324–25.) The Magistrate Court then explained that Plaintiff did not provide any evidence to support his motion for summary judgment. (*Id.* at PageID 325.) Plaintiff moved for summary judgment solely because this Court denied Defendant Cunningham’s motion for judgment on the pleadings. (*Id.*) And the denial of one motion does not automatically entitle the other party to summary judgment. (*Id.* at Page ID 325–26 (citing *B.F. Goodrich Co. v. U.S. Filter Corp.*, 245 F.3d 587, 593 (6th Cir. 2001).) What is more, the Magistrate Court explained that Plaintiff did not comply with Local Rule 56.1 or Federal Rule of Civil Procedure 56, because he did not provide a statement of facts or any supporting evidence. (*Id.* at PageID 326.) And so, the Magistrate Court recommended this Court deny Plaintiff’s motion for summary judgment.

### **DISPOSITION**

A party may serve and file objections to the R&R within 14 days after being served with a copy of the recommended disposition. Fed. R. Civ. P. 72(b)(2). And “[t]he district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3). But when neither party objects to the R&R, the district court need only review for “clear error.” Advisory Comm. Notes Fed. R. Civ. P. 72(b). Here, Plaintiff did not object to the Magistrate Judge’s R&R. And having reviewed the record and the R&R, the Court finds no clear error.

Thus, the Court **ADOPTS** the R&R in full (ECF No. 98) and **DENIES** Plaintiff’s summary judgment motion. (ECF No. 82.)

**SO ORDERED**, this 1st day of March, 2021.

s/Thomas L. Parker  
THOMAS L. PARKER  
UNITED STATES DISTRICT JUDGE